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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11 UNITED STATES OF AMERICA, )

12 Plaintiff, )

13 JONATHAN MATHEW ESTRADA )  
14 SANCHEZ, )

15 Defendant. )  
16

Case No. 2:15-CR-00634-CAS-3

~~PROPOSED~~ ORDER SETTING  
FORTH FACTUAL FINDINGS  
PURSUANT  
TO THE CARES ACT

17 The Court, having read and considered the parties' stipulation regarding  
18 request for an order setting forth factual findings regarding the necessity of  
19 proceeding by video teleconference in this case, hereby issues the following factual  
20 findings:

21 (1) On March 13, 2020, the President of the United States issued a  
22 proclamation declaring a National Emergency in response to the COVID-19  
23 (Coronavirus Disease) pandemic.

24 (2) The Governor of the State of California declared a Proclamation of a  
25 State of Emergency to exist in California on March 4, 2020. Health Officers from  
26 Los Angeles, Riverside, Orange, San Bernardino, Santa Barbara, San Luis Obispo,  
27 and Ventura Counties subsequently issued local emergency orders and  
28 proclamations related to public gatherings.

~~PROPOSED~~ ORDER SETTING FORTH FACTUAL FINDINGS PURSUANT TO THE CARES ACT

1 (3) To date, tens of thousands of people within the Central District of  
2 California have been confirmed to be infected with COVID-19 and the number of  
3 those infected continues to rise, causing an emergency pandemic.

4 (4) In their continuing guidance, the Centers for Disease Control and  
5 Prevention and other public health authorities have suggested the public avoid  
6 social gatherings in groups of more than 10 people and practice physical distancing  
7 (within about six feet) between individuals to potentially slow the spread of  
8 COVID-19. The virus is thought to spread mainly from person-to-person contact,  
9 and no vaccine currently exists.

10 (5) These social distancing guidelines -- which are essential to combatting  
11 the virus -- are generally not compatible with holding in-person court hearings.

12 (6) On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and  
13 Economic Security Act ("CARES Act"), which authorized the Judicial Conference  
14 of the United States to provide authority to Chief District Judges to permit certain  
15 criminal proceedings to be conducted by video or telephonic conference.

16 (7) Under § 15002(b) of the CARES Act, "if the Judicial Conference of the  
17 United States finds that emergency conditions due to the national emergency  
18 declared by the President under the National Emergencies Act (50 U.S.C. 1601 et  
19 seq.) with respect to the Coronavirus Disease 2019 (COVID-19) will materially  
20 affect the functioning of either the Federal courts generally or a particular district  
21 court of the United States, the chief judge of a district court . . . specifically finds,  
22 upon application of the Attorney General or the designee of the Attorney General,  
23 or on motion of the judge or justice, that felony pleas under Rule 11 of the Federal  
24 Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal  
25 Rules of Criminal Procedure cannot be conducted in person without seriously  
26 jeopardizing public health and safety, and the district judge in a particular case  
27 finds for specific reasons that the plea or sentencing in that case cannot be further  
28 delayed without serious harm to the interests of justice, the plea or sentencing in

1 that case may be conducted by video teleconference, or by telephone  
2 conference if video teleconferencing is not reasonably available.”

3 (8) On March 29, 2020, the Judicial Conference of the United States made  
4 the appropriate findings as required under the CARES Act, finding specifically that  
5 “emergency conditions due to the national emergency declared by the President  
6 under the National Emergencies Act (50 U.S.C. § 1601, et seq.) with respect to the  
7 Coronavirus Disease 2019 (COVID-19) have materially affected and will  
8 materially affect the functioning of the federal courts generally.”

9 (9) On March 29, 2020, the Chief Judge of this District also made the  
10 appropriate findings as required under the CARES Act, finding “that felony pleas  
11 under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings  
12 under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted in  
13 person without seriously jeopardizing public health and safety. As a result, if  
14 judges in individual cases find, for specific reasons,  
15 that felony pleas or sentencings in those cases cannot be further delayed without  
16 serious harm to the interests of justice, judges may, with the consent of the  
17 defendant or the juvenile after consultation with counsel, conduct those  
18 proceedings by video conference, or by telephonic conference if video  
19 conferencing is not reasonably available.” These findings will remain in effect  
20 through at least September 24, 2020.

21 (10) Through this order, I now find that the sentencing in this case cannot be  
22 further delayed without serious harm to the interests of justice. My specific reasons  
23 are as follows:

24 a. On March 23, 2020, the Chief Judge of this District activated The  
25 Continuity of Operations (“COOP”) Plan for the Central District of California.

26 b. Under the COOP Plan, all of the Courthouses of the Central District  
27 of California were closed to the public except for hearings on criminal duty  
28 matters. Hearings by video and telephonic conference could be held by individual

1 Judges in certain criminal matters, but Judges had no discretion to hold in-person  
2 hearings. The COOP Plan was in effect through and including June 22, 2020.

3 c. On May 28, 2020, the Court adopted The Plan for Phased  
4 Resumption of Operations (“Reopening Plan”). The Reopening Plan has three  
5 different phases.

6 d. Phase 1 began on June 1, 2020. During this Phase, certain staff  
7 were permitted to return to this District’s courthouses to prepare for limited in-  
8 court hearings.

9 e. Phase 2 began on June 22, 2020. During this Phase, which remains  
10 ongoing, individual Judges have the discretion to hold in-court hearings in any  
11 criminal matter. They may also continue to hold hearings by video and telephonic  
12 conference. Nevertheless, Judges are not permitted to conduct any jury trials at this  
13 time. Judges also remain unable to hold in-person  
14 hearings in most civil matters.

15 f. The final phase of the Reopening Plan, Phase 3, will be  
16 implemented at a date to be determined. During this Phase, jury trials may resume.  
17 As a practical matter, however, this District is unlikely to conduct a substantial  
18 number of jury trials -- and reach its former capacity -- until several months after  
19 the implementation of Phase 3.

20 g. On April 9, 2020, the Judicial Council of the Ninth Circuit declared  
21 a judicial emergency in this District pursuant to 18 U.S.C. § 3174(d). The Judicial  
22 Council declared this emergency because, among other reasons, the Central  
23 District of California is one of the busiest  
24 judicial districts in the country.

25 h. As described in the report accompanying the Judicial Council’s  
26 declaration, this District currently ranks 3<sup>rd</sup> in the Ninth Circuit and 12th nationally  
27 in weighted filings, with 692 weighted filings per judgeship for the 12-month  
28 period ending December 31, 2019. Considering the 10 judicial vacancies, the

1 adjusted weighted filings per judge is 1,076. Overall, the total civil and criminal  
2 filings in the District reached 16,890 in 2019.

3 i. Prior to the Judicial Council declaring the judicial emergency, the  
4 number of criminal cases filed by the U.S. Attorney's Office had risen substantially  
5 over previous totals. The USAO has represented that the number of AUSAs in the  
6 Central District is at an alltime  
7 high, and that the USAO will soon have approximately 220 AUSAs to prosecute  
8 criminal cases.

9 j. This District is authorized 27 permanent judgeships, one temporary  
10 judgeship, and has 10 vacancies, the oldest of which has remained unfilled since  
11 2014. All are categorized as judicial emergencies. There are eight nominees  
12 pending, but due to the COVID-19 pandemic the status of confirmation hearing  
13 dates remains uncertain. Seven active district judges are eligible to take senior  
14 status or retire immediately.

15 k. Since 2011, this District has requested anywhere from 8 to 13  
16 additional judgeships. The District has not received any additional permanent or  
17 temporary judgeships since 1990.

18 l. As the Judicial Conference concluded, the exceptionally large  
19 number of cases pending in this District represents an emergency. A vacancy on a  
20 district court is generally considered an "emergency" if the court's "weighted  
21 filings" exceed 600 per judgeship. The  
22 Central District of California's weighted filings, 692 per judgeship (61 percent  
23 above the Conference standard), are high enough for each Judge's caseload to be  
24 deemed an emergency.

25 m. In normal times, these extreme caseloads can interfere with the  
26 prompt resolution of cases and administration of justice in this District. In an  
27 October 2019 letter to the White House and Congress, the former Chief Judge of  
28 this District warned that "[a]s alarming as this is, the situation may well worsen.

1 Many of the active district judges on the Court who are eligible to retire continue  
2 to serve, despite the ever growing workload. If all of them chose to retire, only  
3 eleven active judges would remain, putting at grave risk our Court's ability to serve  
4 the millions of people in the Central District."

5 n. The ongoing COVID-19 pandemic will only exacerbate these  
6 serious problems. As described in an April 9 Bloomberg article entitled "Short-  
7 Benched U.S. Trial Courts Face  
8 Post-Pandemic Crisis," districts with high caseloads and a large number of judicial  
9 vacancies -- such as this District -- will be challenged to deal with the huge  
10 backlog of trials, hearings, sentencings, and other matters once normal operations  
11 resume. In an email to Bloomberg commenting on this article, the former Chief  
12 Judge of this District agreed that the Central District  
13 of California will have a "significant backlog of trials" when normal operations  
14 resume. She further expressed that the Judicial Council's recent declaration was  
15 "critical for us, given that all ten of our district judge vacancies have been declared  
16 judicial emergencies, and that we have an extremely heavy caseload."

17 o. While individual Judges currently have the discretion to hold in-  
18 person hearings in criminal matters, social distancing guidelines remain generally  
19 incompatible with  
20 in-person hearings. Many parties, including defendants, counsel, and court staff,  
21 are also unable or unwilling to attend in-person hearings due to legitimate safety  
22 concerns. And transporting detained defendants to these hearings may risk the  
23 spread of COVID-19 within detention facilities, and result in defendants being  
24 subject to quarantines upon their return to these  
25 facilities.

26 p. Given these facts, it is essential that Judges in this District resolve  
27 as many matters as possible via video teleconference and telephonic hearing. By  
28 holding these hearings now, this District will be in a much better position to work

1 through the backlog of criminal and civil matters when normal operations resume.

2 (11) I therefore conclude that the sentencing in this case cannot be further  
3 delayed without serious harm to the interests of justice. If the Court were to delay  
4 this hearing until it can be held in-person, it would only add to the enormous  
5 backlog of criminal and civil matters facing this Court, and every Judge in this  
6 District, when normal operations resume.

7 (12) The defendant in this case consents to proceed with her sentencing by  
8 video teleconference. Defendant also understands that, under Federal Rules of  
9 Criminal Procedure 32 and 43, as well as the Constitution, she may have the right  
10 to be physically present at this  
11 hearing. Defendant understands that right and voluntarily agrees to waive it and to  
12 proceed remotely by video teleconference. Counsel joins in this consent,  
13 agreement, and waiver.

14 (13) Based on the findings above, and my authority under § 15002(b) of the  
15 CARES Act, the sentencing in this case will be conducted by video teleconference  
16 on September 23, 2020, at 12:00 p.m., if at the outset of such hearing, defendant  
17 makes a knowing and voluntary waiver of her right to an in-person hearing.

18 IT IS SO ORDERED.

19  
20 Date: September 15, 2020

  
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21 THE HONORABLE CHRISTINA A. SNYDER  
22 UNITED STATES DISTRICT JUDGE  
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